

UNITED STATES DISTRICT COURT

Northern District of California

San Francisco Division

PHILIP E. POOR,

No. C 12-02206 LB

Plaintiff,

**ORDER DENYING AS MOOT
DEFENDANTS' MOTION TO
DISMISS**

v.

MARIO BANA, et al.,

[Re: ECF No. 5]

Defendants.
_____ /

Plaintiff filed a complaint on May 2, 2012. Complaint, ECF No. 1. The complaint contains a minimum of allegations. *See generally id.* On August 17, 2012, Defendants moved to dismiss the complaint for failure to state a claim for relief or, alternatively, for a more definite statement. Motion, ECF No. 5. In short, Defendants could not tell from the complaint whether Plaintiff's action is a putative class under Federal Rule of Civil Procedure 23 or under California's Private Attorneys General Act. *See id.* In his opposition, Plaintiff informed Defendants that it is neither; it is a putative class action filed pursuant to the Federal Labor Standards Act. Opposition, ECF No. 12. Defendants then filed a reply brief that states that they now have the clarification they need to respond to Plaintiff's complaint. Reply, ECF No. 14.

The court agrees whole-heartedly with Defendants that it indeed is regrettable that, rather than respond to Defendants' informal requests for clarification, Plaintiff chose to require Defendants to file the instant motion and to require the court to spend time reviewing the moving papers and issuing this order. Nevertheless, because it appears that Defendants now have sufficient information

1 to respond to Plaintiff's complaint, the court **DENIES AS MOOT** Defendants' motion.¹

2 **IT IS SO ORDERED.**

3 Dated: September 19, 2012

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LAUREL BEELER
United States Magistrate Judge

UNITED STATES DISTRICT COURT
For the Northern District of California

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28 ¹ Pursuant to Civil Local Rule 7-1(b), the court finds this matter suitable for determination without oral argument and vacates the September 20, 2012 hearing.